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Attorney for Defendant
KATHERINE P. KEALOHA

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KATHERINE P. KEALOHA (1),
LOUIS M. KEALOHA (2),
DEREK WAYNE HAHN (3),
MINH-HUNG NGUYEN (4), and
GORDON SHIRAISHI (5),

Defendants.

CR NO. 17-00582-JMS

DEFENDANT KATHERINE P. KEALOHA'S OPPOSITION TO GOVERNMENT'S MOTION IN LIMINE TO ADMIT EVIDENCE OF KATHERINE KEALOHA'S PURCHASE OF A REVOCABLE LIVING TRUST IN MARCH 2009 [ECF NO. 741]; CERTIFICATE OF SERVICE

**DEFENDANT KATHERINE P. KEALOHA'S OPPOSITION
TO GOVERNMENT'S MOTION IN LIMINE TO ADMIT EVIDENCE
OF KATHERINE KEALOHA'S PURCHASE
OF A REVOCABLE LIVING TRUST IN MARCH 2009**

Defendant KATHERINE P. KEALOHA, by and through counsel, Cynthia A. Kagiwada, opposes the government's June 13, 2019 Motion in Limine to

Admit Evidence of Katherine Kealoha's Purchase of a Revocable Living Trust in March 2009 [ECF No. 741]. The government's motion should be denied for the following reasons.

The government, days before it will rest its case, seeks to introduce newly disclosed evidence that it claims will purportedly show that Katherine Kealoha purchased a revocable living trust document online from a company in late March 2009. **The government first produced this evidence to the defense on June 13, 2019, four years after it commenced its investigation in 2015 and two half years after it filed its initial indictment against Ms. Kealoha.** This newly disclosed evidence is, without question, untimely and clearly violates Fed. R. Crim. P Rule 16. Should the court allow this evidence to be admitted, Ms. Kealoha will be severely prejudiced as she would have little to no opportunity to perform her own investigation and further prepare defenses, in the middle of trial, with regard to this untimely disclosed evidence. On this basis, the government's motion should be denied.

In addition to the government's Rule 16 violations, the government's evidence regarding Ms. Kealoha's purported purchase of trust document in March 2009 should be precluded on further grounds. The evidence is irrelevant to the government's "motive" theory as the new evidence shows that Ms. Kealoha purportedly ordered the trust document online on March 22, 2009, five (5) days

after she supposedly sent some form of the Gerard Puana Revocable Living Trust document to First American Title on March 17, 2009. *See* Fed. R. Evid. 401. Moreover, the government's new evidence, even if considered tangentially relevant, is prejudicial and confusing, and thus the dangers from this evidence substantially outweigh any limited probative value. *See* Fed. R. Evid. 403. Finally, this evidence, which the government claims will support its "motive" theory against Ms. Kealoha (more specifically in her alleged efforts to make up "Alison Lee Wong") is also cumulative.

For all the above reasons, Ms. Kealoha respectfully requests that the court deny the government's motion.

DATED: Kaneohe, Hawaii, June 16, 2019.

Respectfully submitted,

/s/ Cynthia A. Kagiwada
CYNTHIA A. KAGIWADA
Attorney for Defendant
KATHERINE P. KEALOHA